

DEC 21 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RASHAD SHADEED,

Plaintiff - Appellant,

v.

BOARD OF PRISON TERMS; et al.,

Defendants - Appellees.

No. 07-15850

D.C. No. CV-06-01456-FCD

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, District Judge, Presiding

Submitted December 17, 2007<sup>\*\*</sup>

Before: GOODWIN, REINHARDT and W. FLETCHER, Circuit Judges.

Appellant's "Motion: For Continuation and Amends" received on October 1, 2007, is construed as a response to the court's September 13, 2007 order to show

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

cause and to appellees' September 11, 2007 motion for summary affirmance. The Clerk shall file the response.

We have reviewed appellees' motion for summary affirmance, appellant's opening brief and appellant's response received on October 1, 2007, and the record. The questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). The district court did not err in dismissing appellant's action without prejudice for failure to serve the summons on defendants, despite the court's repeated warnings to do so.

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

**AFFIRMED.**